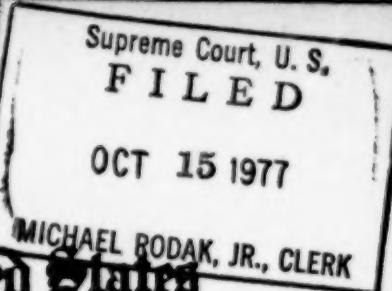


IN THE
Supreme Court of the United States
OCTOBER TERM, 1977



77-565-

No.

**ALAN ERNEST, Next Friend of Unborn Child Roe
And All Others Similarly Situated**

Petitioner

vs.

**The Honorable JOHN J. SIRICA, Judge, United
States District Court for the District of Columbia
AND
The United States District Court for the
District of Columbia**

Denise Doe, et al., and Joseph A. Califano Jr.

REAL PARTIES IN INTEREST

**MOTION FOR LEAVE TO FILE A PETITION FOR
A WRIT OF MANDAMUS WITH PETITION**

**ALAN ERNEST
5713 Harwich Ct. #232
Alexandria, Va 22311**

The Petitioner Pro Se

In The
SUPREME COURT OF THE UNITED STATES
October Term, 1977

ALAN ERNEST, Next Friend of Unborn Child Roe
And All Others Similarly Situated

Petitioner

vs.

JOHN J. SIRICA, Judge, United States District
Court for the District of Columbia, et al

Denise Doe, et al., and Joseph A. Califano Jr.

REAL PARTIES IN INTEREST

MOTION FOR LEAVE TO FILE A PETITION
FOR A WRIT OF MANDAMUS

The petitioner moves for leave to file the attached petition for a writ of mandamus to Judge John J. Sirica of the United States District Court for the District of Columbia and prays that it be granted and the relief requested therein speedily ordered.

Alan Ernest
5713 Harwich Ct. #232
Alexandria, Va 22311

The Petitioner Pro Se

In The
SUPREME COURT OF THE UNITED STATES
October Term, 1977

ALAN ERNEST, Next Friend of Unborn Child Roe
And All Others Similarly Situated

Petitioner

vs.

JOHN J. SIRICA, Judge, United States District
Court for the District of Columbia, et al

Denise Doe, et al., and Joseph A. Califano Jr.

REAL PARTIES IN INTEREST

PETITION FOR A WRIT OF MANDAMUS

Alan Ernest, the petitioner, hereinafter referred to as the "next friend," prays that a writ of mandamus be issued to Judge John J. Sirica, United States District Court for the District of Columbia.

OPINIONS BELOW

The court below issued no opinions on the legal issues involved herein.

JURISDICTION

1. The conduct complained about is the omission to act. Consequently, there are no orders, as such, to be reviewed. However see A-3 & A-4, infra, which next friend takes as orders.

2. The jurisdiction of this court is invoked under 28 U.S.C. 1651(a).

WHY RELIEF IS SOUGHT IN THIS COURT

Relief is sought in this Court because the Court of Appeals has already rejected a petition for mandamus in this cause. See A-1, infra.

QUESTIONS PRESENTED

1. For the sixth time, the Supreme Court is petitioned to overrule its 1973 abortion decision, *Roe v Wade*, 410 US 113, on the grounds that it is based on false evidence and millions of lives have been illegally exterminated. See EXHIBIT A (a copy was filed with Pet. Cert. No. 77-184). Due to these repeated petitions, the Supreme Court is now charged with premeditated "falsehood," and the premeditated "crime" of millions of illegal homicides, - in effect the overthrow of the United States Constitution.

2. The petitioner also demands that Judge Sirica be adjudged to have lawlessly used his office to sustain, perpetuate, and cover up this homicidal falsehood.

3. The Supreme Court is also petitioned to overrule *United States v Vuitch*, 402 US 62, on the basis that the case illegally exterminated thousands of unborn victims on no evidence whatsoever. See EXHIBIT C (a copy was filed with Pet. Cert. 77-184)

CONSTITUTIONAL PROVISIONS INVOLVED

FIFTH AMENDMENT: "No person shall . . . be deprived of life . . . without due process of law."

FOURTEENTH AMENDMENT: "(N)or shall any State deprive

any person of life . . . without due process of law."

DECLARATION OF INDEPENDENCE: "We hold these truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life . . . "

"The constitution of the United States is founded upon the principles of government set forth and maintained in the Declaration of Independence." (Chief Justice Taney) 17 Fed Case (No. 9487) p. 152 n.3.

STATEMENT OF THE CASE

About October 1, 1976, the case of *Denise Doe v Mathews*, 422 F Supp 141 (1976) was filed in United States District Court for the District of Columbia. Denise Doe asked Judge Sirica to declare the Hyde Amendment (Congress prohibited federal welfare for abortions except to save the life of the mother) to be unconstitutional and to enjoin it in the District of Columbia.

About October 5, 1976, Unborn Child Roe by next friend Alan Ernest, filed a motion for leave to intervene. The proposed answer and counterclaim attending the motion asked Judge Sirica to declare *Roe v Wade*, 410 US 113, to be illegal, null and void on the grounds that it was based on false evidence. Judge Sirica was informed that he had no jurisdiction to obey illegal orders. The motion noted:

"(T)he issue now squarely presented is whether the Federal District Courts will cover up for the United States Supreme Court, as the Watergate conspirators covered up for the President."

About October 12, 1976, Judge Sirica held a hearing on Denise Doe's request for a preliminary injunction. The next friend appeared at that hearing and notified Judge Sirica in open court that the

charge against Roe v Wade was the same charge that Abraham Lincoln brought against the Dred Scott case

"It is the first of its kind; it is an astonisher in legal history. It is a new wonder of the world. It is based upon falsehood in the main as to the facts . . . upon which it stands . . ."

About October 21, 1976, Judge Sirica entered an order dismissing the case of Denise Doe v Mathews for want of jurisdiction. 422 F Supp 141 (1976). Denise Doe appealed the dismissal.

Judge Sirica's October 21 order misstated the record. The order held: "In addressing the issues raised in this case, the Court is not called upon to determine whether abortions performed during the first six months of pregnancy or at any time, are or are not proper:" 422 F Supp 141 at 141. However the next friend's proposed counterclaim charged that "the Supreme Court of the United States has unconstitutionally exterminated millions of lives by false evidence to which it has twice deliberately adhered . . . the most astounding charge against a court in the entire history of the world." Judge Sirica was exactly "called upon" to declare Roe v Wade to be illegal, null and void. Judge Sirica's misstatement blotted Unborn Child Roe's existence from the record.

Judge Sirica took no action on next friend's motion to intervene. 422 F Supp at 144 n. 4.

The next friend filed a petition for a writ of mandamus in the United States Court of Appeals for the District of Columbia Circuit to order Judge Sirica to grant the motion for intervention and to set the counterclaim down for independent trial pursuant to Fed Rules Civ Pro 13(i) which permits separate trials for counterclaims even though the original action has been dismissed. The counterclaim asserted independent jurisdiction, as if it were an

original action. That petition was denied on December 28, 1976. See A-1, infra.

The next friend also sent a petition for a rule nisi or alternative writ to Chief Justice Warren Burger to order Judge Sirica to grant the motion to intervene and hear the counterclaim. That was rejected by letter dated January 10, 1977. See A-2, infra.

About December 31, 1976, the next friend filed a motion (hereinafter "Motion") for Judge Sirica to reconsider his non-action, and to grant the application to intervene and to set the counterclaim down for independent trial under Rule 13(i), supra. The Motion noted:

"If Exhibit A can be proven wrong, next friend will instantly give it up. The next friend will follow the ancient advice to give up wrong as soon as it is discovered. Yet, until proven wrong, the next friend will continue to press the charges, because he believes Exhibit A to be correct in every material point. The next friend challenges the Supreme Court, or any other court, to prove material points of Exhibit A to be false, in the same careful, detailed and authoritative manner that Exhibit A proves indispensable parts of Roe v Wade to be false."

Next friend sent a letter dated March 7, 1977 to Judge Sirica inquiring about his intention on the Motion. A letter from Judge Sirica's law clerk dated March 21, 1977, stated that Judge Sirica had no "jurisdiction" to act on the Motion while Denise Doe v Mathews was on appeal. See A-3, infra.

In May, 1977, the next friend filed a Memorandum on trial court jurisdiction pending appeal indicating that Judge Sirica did have jurisdiction to grant the Motion because the counterclaim did not involve the legal issues "directly involved in

the appeal" and further, even if it did, the trial court retained jurisdiction to preserve the subject matter pending appeal. In this case, the subject matter was human life.

Next friend sent a letter dated July 7, 1977 to Judge Sirica calling attention to the Memorandum on trial court jurisdiction pending appeal and asking his intention on the Motion. A letter from Judge Sirica's law clerk dated July 29, 1977, repeated that Judge Sirica had "no jurisdiction" over the Motion pending appeal of Denise Doe. See A-4.

Next friend sent a letter to Judge Sirica dated August 12, 1977, noting that the assertion of "no jurisdiction" was made without any authority to support it. The letter expressed the opinion that Judge Sirica was violating the rule of law. Next friend's letter queried:

"If EXHIBIT A (the documentation to prove Roe v Wade illegal) shows that, -

"(1) even the Supreme Court admitted in Roe v Wade that if the unborn were "a 'person' within the language and meaning of the Fourteenth Amendment" then the case for abortion for convenience "of course, collapses, for the fetus' right to life is then guaranteed specifically by the Amendment," and

"(2) the express, universal terms of the Fourteenth Amendment ("nor shall any State deprive any person of life . . . without due process of law") on their face, protect the lives of the unborn, as everyone else, and

"(3) the holdings of Chief Justice John Marshall (that can be traced through the Constitution The Federalist Papers, and the Federal Convention of 1787) show that the Supreme Court had no lawful power to construe an exception to express, universal terms (such as "any person") unless the Court could

prove the exception to the express, universal terms beyond a reasonable doubt, and show that "had this particular case been suggested" to the framers, the "language would have been so varied, as to exclude it," and

"(4) the Supreme Court presented false evidence to support its conclusion in Roe v Wade that "the word 'person,' as used in the Fourteenth Amendment, does not include the unborn," and but for the false evidence, there is not even a credible foundation, much less a compelling one, for denying the protection of the express, universal terms "any person" to the lives of the unborn, and

"(5) the truthful history shows that these express, universal terms "any person" include the unborn, as they do all other categories of persons, and more certainly than many groups the Supreme Court has already judicially recognized (the unborn being the only persons ever excluded from the terms "any person") merely on the strength of the express universal terms "any person" without any independent corroborating evidence whatsoever, then -

"under government by laws and not men, what defense can the judges who set up or maintain Roe v Wade claim to the charge that they have committed the 'crime' of violating the very letter and spirit of the Constitution, and condemned millions of victims to death whom the Constitution endeavours to preserve?"

.....

"How can I continue to look to a judge to uphold the law whose timely voice could have saved up to a million lives from illegal destruction, but who instead chooses by his own free will to be silent, presenting to me what appears a lawless excuse amounting to 'treason to the constitution'?"

Next friend's letter then informed Judge Sirica that unless he submitted authorities to the

next friend before October 12, 1977, showing the Memorandum on trial court jurisdiction pending appeal to be plainly wrong, then the next friend would charge Judge Sirica in court action with the "crime" of "lawlessly using his office to sustain, perpetuate and cover-up homicidal falsehood."

October 12, 1977, having arrived, and next friend not receiving the requested documentation to show that Judge Sirica was obeying the law, the record is now spread before history for truth seeking people to judge. "There is nothing covered up that will not be uncovered, nothing hidden that will not be made known." Matthew 10:26-27(N.E.Bible)

REASONS FOR GRANTING THE WRIT

The Supreme Court of the United States is charged with premeditated "falsehood" and the pre-meditated "crime" of millions of illegal homicides. It is further charged that this is tantamount to the overthrow of the United States Constitution, and the Declaration of Independence, and the establishment of government by criminal tyranny in America. The basis is outlined below.

1. In *Roe v Wade*, the Supreme Court asserted facts to be true. EXHIBIT A demonstrates these unqualified assertions of certitude to be not true. Even if the Supreme Court had no original knowledge of the falsity, Abraham Lincoln warned: "(I)t is an established maxim in morals that he who makes an assertion without knowing whether it is true or false, is guilty of falsehood; and the accidental truth of the assertion, does not justify or excuse him." 1 The Collected Works of Abraham Lincoln 384

2. Furthermore, it appears that the Supreme Court could not have reached its abortion conclusion but for these false assertions, and it has now four times deliberately adhered to them. Would not the charge that Lincoln brought against the Dred

Scott case now pertain to *Roe v Wade*: "It is the first of its kind; it is an astonisher in legal history. It is a new wonder of the world. It is based on falsehood in the main as to the facts . . . upon which it stands." 2 Collected Works of Abraham Lincoln 495 (Basler ed. 1953)

4. Chief Justice John Marshall held that for judges to "swear" to discharge their duties "agreeably to the constitution" and then "to close their eyes on the constitution, and . . . condemn to death those victims whom the constitution endeavours to preserve" is worse than "solemn mockery," it is a "crime." *Marbury v Madison*, 1 Cranch at 179-180.

5. It is charged that the Supreme Court first condemned tens of thousands of victims to death on no evidence whatsoever (*United States v Vuitch*) and then condemned millions of victims to death on false evidence (*Roe v Wade*). At Nuremberg judges were given life sentences. The Nuremberg court noted that those judges had condemned victims to death based either on no evidence or doubtful evidence; the victims were deemed inferior. "The dagger of the assassin was concealed beneath the robe of the jurist." The Justice Case, 3 Trials of War Criminals before the Nuernberg Military Tribunals 985.

6. The Nuremberg court recounted that Hitler claimed to be the "supreme judge" of Germany; that his word was law; that he could violate the letter and spirit of the German constitution; that he could decree millions of persons to death. Id., 955-1177.

7. *Roe v Wade* asserts a second method, which amounts to this exact Hitler procedure, for the government to condemn persons to death:

The First, set out in the Constitution, is by conviction by an impartial jury for violation of express laws enacted by the people and applicable to all in the state; with right to representation by counsel; with right to be acquitted unless found

guilty beyond a reasonable doubt; with provision to stop execution if new evidence is discovered.

The Second, set out in Roe v Wade, is for a Tribunal holding office for life (without assistance of counsel to defend the victims) to rule the victims out of the human race as inferiors, in violation of the very letter and spirit of the Constitution, falsifying evidence to make the homicides appear legal, and year after year to repeatedly deny applications showing the exterminations to be illegal.

8. If it were Jews, or Negroes, or Indians who had been thus ruled out of the human race as inferior so that they could be killed for the benefit of the killer, no unprejudiced mind could doubt the criminal tyranny of the decision. But as Jefferson noted, the "friendless" is selected as "the safest subject of a first experiment" of despotism, but others soon follow "as its prey." The Ky Res, 17 The Writings of Thomas Jefferson 388(1907). Just as soon as public opinion is brought to endorse this new doctrine that there is nothing wrong in resolving onerous problems by developing popular prejudice to sincerely believe that the victims are inferior and inventing a new constitutional right to kill the victims for convenience, no doubt there will be other victims.

9. It is submitted that EXHIBIT A(as outlined on page 6, supra) establishes the charge of "falsehood" and "crime" so conclusively, that there can be no defense that will not amount to a claim that the Supreme Court is above the law, -that as Hitler was to Germany, so the Supreme Court is to America.

If it be true, as Chief Justice Marshall once held(see Marbury v Madison, 1 Cranch 137, 163, 176, 178) that "government of laws, and not of men," founded in a "written constitution" deriving its just power from the "supreme" "authority" of "the people" is "the greatest improvement on political institutions," then the overthrow of that government

of laws by judicial lawlessness may be the most heinous crime in the history of government. Not only is the Constitution overthrown, but the Declaration of Independence is perverted to effectively read that "all men are created equal,- except those created to die for the convenience of others."

"Alas for you lawyers! You have taken away the key of knowledge." Luke 11:52 (N.E. Bible)

"Alas for you, lawyers . . . hypocrites! You are like tombs covered with whitewash; they look well from the outside, but inside they are full of dead men's bones and all kinds of filth. So it is with you: outside you look like honest men, but inside you are brim-full of hypocrisy and crime." Matthew 23:27-29

"Beware of the doctors of the law, who love to walk up and down in long robes, receiving respectful greetings . . . and to have the chief seats . . . they will receive the severest sentence." Mark 12:38-40.

Alan Ernest
5713 Harwich Ct. #232
Alexandria, Va 22311

The Petitioner Pro Se

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 76-2115

September Term, 1976

In Re:

Alan Ernest, Next
Friend of Unborn Child
Roe, and all others
similarly situated, Filed Dec 28 1976
 George A. Fisher
 Clerk

Petitioner

Before: Wright and McGowan, Circuit Judges

O R D E R

On consideration of petitioner's petition for a
writ of mandamus or prohibition, it is

ORDERED by the Court that petitioner's afore-
said petition is denied.

Per Curiam

A-1

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, D.C. 20543

January 10, 1977

Alan Ernest, Esq.
5713 Harwich Court #232
Alexandria, Virginia 22311

Dear Mr. Ernest:

The attached typewritten document which you im-
properly mailed to the Chief Justice has been re-
ferred to this office for disposition.

I have been directed to return the document to
you since a Justice of this Court has no authority
to grant the relief requested.

Very truly yours,

/s/ Michael Rodak, Jr.
Clerk

Enclosure

A-2

United States District Court
For the District of Columbia

Chambers of
Judge John J. Sirica

March 21, 1977

Alan Ernest, Esq.
5713 Harwich Ct. #232
Alexandria, Va. 22311

Dear Mr. Ernest,

In answer to your letter of March 7, 1977, the plaintiffs in Civil Action No. 76-1835 have, as you know, appealed its dismissal. The Court of Appeals therefore now has exclusive jurisdiction over the case. The next action will be taken by that court.

I hope that this answers your questions about the case.

Sincerely,

/s/ Timothy P. McCullom
Law Clerk

United States District Court
for the District of Columbia

Chambers of
Judge John J. Sirica

July 29, 1977

Alan Ernest, Esq.
5713 Harwich Ct. #232
Alexandria, Va. 22311

Dear Mr. Ernest,

I apologize for not writing to you sooner.

As you may be aware, Doe v. Mathews is still pending in the Court of Appeals. Therefore, as I have indicated to you in a prior letter, Judge Sirica has no jurisdiction to act on your motion. Should the Court of Appeals remand the case to the Judge for further proceedings, your motion will be considered fully. I hope this answers your questions.

Sincerely,

/s/ Timothy P. McCullom
Law Clerk